

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DIOP L. PRICE,

Plaintiff,

– against –

CORRECTION OFFICER I FU,
CORRECTION OFFICER LIN, CAPTAIN
WICKNAM, and THE CITY OF NEW YORK,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#

DATE FILED: 11/27/19

ORDER

19 Civ. 6845 (ER)

Ramos, D.J.:

In July 2019, Diop L. Price, proceeding *pro se* and *in forma pauperis*, filed the instant action against the New York City Department of Correction and several correction officers, alleging that the defendants failed to protect him from assaults by other inmates while incarcerated on Rikers Island. Doc. 2. Soon thereafter, the Court ordered that the City of New York be substituted for the Department of Correction, and it requested that the defendants waive service. Doc. 6.

In his complaint, Price indicated he was incarcerated at North Infirmery Command in the Riker's Island Complex. Doc. 2 at 2, 6. On the docket, however, Price's address is listed as the Ulster Correctional Facility in Napanoch, New York, and all correspondence has been sent to him there. The docket does not indicate why or when Price's address was changed from the one provided in his complaint.

In October 2019, the City asked for an extension of time to answer the complaint because it was unable to contact Price at Ulster and thereby receive the appropriate waivers from him, allowing it to fully investigate his allegations. Doc. 10. In response, the Court ordered Price to update his address lest his action be dismissed for failure to prosecute under Federal Rule of

Procedure 41(b). Doc. 11. On November 26, the City sent another letter to the Court asking that the Court dismiss the action because Price had failed to update the Court with a proper address. Doc. 12.

Since that time, all correspondence sent to Price at Ulster has been returned because, according to a New York State Inmate Population Information search,¹ he was released from that facility on August 1, 2019. But the New York *City* Inmate Lookup Service² indicates that he is currently incarcerated at North Infirmery Command on Rikers Island, the same facility he listed on his complaint.

Because there is no indication that correspondence related to this case has been sent to the address listed by Price on his complaint, the Court DENIES without prejudice the City's request to dismiss this action under Rule 41(b). The City may renew its request if it is unable to contact Price at that new address.

The Clerk of Court is respectfully directed to change Price's address on the docket to the following:

Diop L. Price
NYSID: 11627806K
Book & Case Number: 8951901048
North Infirmery Command (NIC)
15-00 Hazen Street
East Elmhurst, NY 11370

The Clerk is further directed to mail a packet containing a copy of the docket and each document referenced within the docket to Price's new address. The Clerk is also directed to send a copy of the Order Granting IFP Application, Doc. 4, and the Prisoner Authorization, Doc. 3, to the

¹ Available at <http://nysdoccslookup.doccs.ny.gov/>.

² Available at a073-ils-web.nyc.gov/inmatelookup/pages/common/find.jsf.

agency having custody of Price. That agency is directed to follow the instructions of Chief Judge McMahon within that Order.

Price is ORDERED to send a letter to the Court indicating receipt of this packet and his intention to continue this case by December 27, 2019. Finally, it is Price's obligation to promptly submit a written notification to the Court if Plaintiff's address changes, and the Court may dismiss the action if Plaintiff fails to do so.

It is SO ORDERED.

Dated: November 27, 2019
New York, New York

A handwritten signature in black ink, appearing to read 'ER', is written above a horizontal line.

Edgardo Ramos, U.S.D.J.